

FILED  
IN CLERKS OFFICE  
2007 FEB -2 A 8:46  
U.S. DISTRICT COURT  
DISTRICT OF MASS.

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

JANICE STEVENSON,

Plaintiff,

v.

NEIGHBORHOOD HOUSE CHARTER  
SCHOOL,

Defendant.

CIVIL ACTION NO. 05-CV-11584-DPW

**PLAINTIFFS RESPONSE TO DEFENDANT'S MOTION FOR ORDER TO  
SHOW CAUSE WHY PLAINTIFF SHOULD NOT BE HELD IN CONTEMPT**

**Plaintiff, Janice Stevenson ("Plaintiff") objects to Defendant Neighborhood  
House Charter School ("Defendant", "NHCS") Motion for Order to Show Cause.**

**As grounds for this objection, Plaintiff states as follows:**

**FACTS AND PROCEDURAL BACKGROUND:**

**Plaintiff worked for the defendant from May 2004 to June 2005, when she  
was involuntarily terminated for reporting suspected accounting fraud by the Dean  
of Administration, Jagdish Chokshi, to Robert Melzer, Vice President of the  
defendant's Board of Trustees. In August 2004, the Plaintiff was given a hourly  
position in the Finance Office under the Dean of Administration, Jagdish Chokshi.**

**The terms of Plaintiff's employment contract were oral and the yearly salary  
was \$52,000. Plaintiff's primary duty was entering employees into the school's  
various databases.**

**As required, the Plaintiff contacted the Attorney General's office and was  
given permission to pursue the present case as a civil matter.**

**Plaintiff, with counsel, commenced the present action approximately July 28, 2005; and Plaintiff's counsel sent a letter demanding employment records. The defendant did not provide the Plaintiff's employment records to her. These paper records may be lost or destroyed after the Defendant was on notice that Plaintiff had a potential claim against them.**

**Employers are required to keep, for three years, records concerning their employees' working hours and payment of wages, and the Attorney General is entitled to access to these records. These requirements create a presumption that the records are relevant to disputes over wages brought by private parties. Without records, the Defendant is precluded from challenging the Plaintiff's calculations without supporting documentation.**

**The Defendants now wish to shift production of their records to the Plaintiff. Thus far, the Defendant has substantiated their case on "conclusory allegations, improbable inferences, and unsupported speculation."<sup>1</sup>**

- 1. The Court held a hearing on January 23, 2007, at which the Court heard argument on several motions.**
- 2. Plaintiff informed the Court that all documents submitted to the Court on December 20, 2007 was also sent to the Defendant.**
- 3. Defendant email of December 22, 2007 admits such. Exhibit I**
- 4. Plaintiff was unaware of any deficiencies until Defendant submitted a motion to the court alleging missing documents.**
- 5. Defendant could not identify specific alleged missing documents at the hearing.**

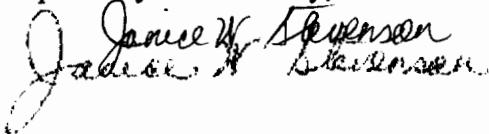
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<sup>1</sup> Medina-Munoz v. R.J. Reynolds Tobacco Co., 896 F. 2d 5, 8 (1<sup>st</sup> Cir. 1990)

6. After receiving notice of the "alleged" deficiencies via Defendant's motions to the Court, Plaintiff resent the documents via six emails.
7. Plaintiff offered proof of these emails at the January 23, 2007 hearing; however, the defendant was not interested in remedying their allegations.
8. The Defendant continually submits motions for order to show cause against the Plaintiff. However, this Court is aware of the employers records required to substantiate an exemption from the FLSA.
9. This employer has never introduced evidence warranting a finding that Plaintiff was an independent contractor.
10. The Defendant's budget, job posting, and emails existed at the time the Plaintiff's attorney letter was sent in 2005.
11. Barry Miller has known of his client's budget, job posting, and emails from the start of this lawsuit. Why does this attorney want the Plaintiff's lawsuit dismissed because of exculpatory evidence, which negates Neighborhood House Charter School FLSA exemption claim?
12. Defendant's exclusion of evidence may be dispositive of merits of case.

Date: February 2, 2007

Respectfully submitted by,

A handwritten signature in cursive script that reads "Janice W. Stevenson". The signature is written in dark ink and is positioned above the typed name.

Janice Wilson Stevenson  
P.O. Box 400372  
Cambridge, MA 02140  
617-721-2638 - ph  
866-838-4286 - fax

CERTIFICATE OF SERVICE

I hereby certify that this document was served on NEIGHBORHOOD HOUSE  
CHARTER SCHOOL by electronic mail or facsimile to:

Lynn A. Kappelman (BBO # 642017)  
Barry J. Miller (BBO # 661596)  
SEYFARTH SHAW LLP  
World Trade Center East  
Two Seaport Lane, Suite 300  
Boston, MA 02210-2028  
Telephone: (617) 946-4800  
Telecopier: (617) 946-4801

*James W. Stevenson*  
*James W. Stevenson*

# Exhibit I

**Stevenson, Janice W.**

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**From:** Miller, Barry [BMiller@seyfarth.com]  
**Sent:** Friday, December 22, 2006 3:08 PM  
**To:** Stevenson, Janice W.  
**Cc:** Kappelman, Lynn  
**Subject:** RE: Stevenson v. NHCS

Ms. Stevenson,

We write to address the papers that you sent to me by e-mail this afternoon. We believe that it would be highly inappropriate for you to file these documents with the District Court, and NHCS will seek all available legal relief against you if you do so.

First, you have attached a highly confidential and sensitive document listing projected FY05 salaries for NHCS's staff to both your "Motion for Summary Judgment" and your "Plaintiff's Motion for Order to Show Cause Why Defendant Should Not be Held in Contempt." The Bankruptcy Court has already found that your filing of this very document was improper, and that court has entered substantial monetary sanctions against you for your misconduct in that regard.

Second, your filing of the documents that you e-mailed to me this afternoon would violate Magistrate Judge Alexander's Order of November 7, 2006. By the terms of that Order, you are required to consult with NHCS's counsel before filing motions such as the Motion for Order to Show Cause attached to your e-mail. You have not consulted us in any manner, and it is our position that your motion is entirely devoid of any legal basis and is frivolous. To illustrate but one of the obvious failings of your motion, you have not (and cannot) identify any court order with which NHCS has failed to comply, and there is therefore absolutely no basis for any finding that NHCS is in contempt of court.

As noted above, if you file the documents that you e-mailed to me this afternoon, NHCS reserves the right to seek all legal recourse against you, including the imposition of additional sanctions. If you have already presented these documents to the Court for filing, we demand that you withdraw them immediately and contact us to discuss whether such documents may be filed.

Regards,

Barry J. Miller  
Seyfarth Shaw LLP  
Two Seaport Lane, Suite 300  
Boston, MA 02210  
office phone: (617) 946-4800  
direct phone: (617) 946-4806  
office fax: (617) 946-4801  
direct fax: (617) 790-6753

-----Original Message-----

From: Stevenson, Janice W. [mailto:janicestevensonus@gmail.com]  
Sent: Friday, December 22, 2006 2:01 PM  
To: Miller, Barry  
Subject: RE: Stevenson v. NHCS

-----Original Message-----

From: Miller, Barry [mailto:BMiller@seyfarth.com]

Sent: Thursday, December 21, 2006 9:24 AM  
To: Stevenson Janice  
Subject: Stevenson v. NRC

Ms. Stevenson,

We filed the attached documents with the District Court this morning.  
Hard copies of these documents are also being mailed to your post office  
box.

Regards,

Barry J. Miller  
Seyfarth Shaw LLP  
Two Seaport Lane, Suite 300  
Boston, MA 02210  
office phone: (617) 946-4800  
direct phone: (617) 946-4806  
office fax: (617) 946-4801  
direct fax: (617) 790-6753

<<Motion for Leave to File.pdf>> <<Proposed Supp Brief.pdf>>  
<<A.pdf>> <<B.pdf>> <<C.pdf>> <<D.pdf>> <<E.pdf>> <<F.pdf>>

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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DISTRICT OF MASS.

JANICE STEVENSON,

Plaintiff,

NEIGHBORHOOD HOUSE CHARTER  
SCHOOL,

Defendant.

CIVIL ACTION NO. 05-CV-11584-DPW

**AFFIDAVIT OF JANICE STEVENSON IN SUPPORT OF**  
**PLAINTIFF'S OBJECTION TO**  
**DEFENDANT'S RENEWED MOTION FOR ORDER TO SHOW CAUSE**

I, Janice Stevenson, under oath, depose and say as follows based on personal knowledge:

1. I have produced to counsel for NHCS all documents that I submitted to the Court in conjunction with the pleadings that I filed with the Court on December 20, 2006, Docket Number 55, 56, and 57.
2. I sent these documents to NHCS Counsel on December 22, 2006.
3. Documents submitted to the Court and to Defendant are complete to the best of my personal knowledge and all the requested documents I had in my possession.
4. I have served copies of legal documents in this case exclusively by electronic mail to Defendant's attorney, Mr. Barry Miller.
5. Mr. Miller made no mention of incomplete submissions to me until Plaintiff's Motion for Summary Judgment produced documentary facts that compelled the legal conclusion that the Neighborhood House Charter School ("Employer", "School" or "Defendant") is the Employer and that the Plaintiff is their employee for purposes of the FLSA.



6. The Defendant has not been able to convince any state or federal administrative agency that Plaintiff was an independent contractor during her employment at Neighborhood House Charter School from August 2004 through June 2005.

Signed under penalties of perjury this 25<sup>th</sup> day of January, 2007.

A handwritten signature in cursive script, appearing to read "Janice W. Stevenson". The signature is written in dark ink and is positioned above a horizontal line.

---

Janice Stevenson